

Town of Lincoln
100 Old River Road, Lincoln RI
Zoning Board of Review

December 4, 2007 Minutes

Present: Raymond Arsenault, Gabriella Halmi, Arthur Russo, John Bart, Kristen Rao, David Gobeille, Jina Karampetsos and Town Solicitor Anthony Desisto.

Minutes

Motion made by member Karampetsos to accept the November 6, 2007 minutes as presented. Motion seconded by member Gobeille. Motion carried with 5-0 vote.

Correspondence

One item of correspondence was received dated October 30, 2007 in regards to a dimensional variance request by John Bigonette, Jr. requesting to withdraw.

Applications

John Bigonette, Jr., 290 Albion Road, Lincoln, RI – Application for

Dimensional Variance seeking side yard setback, height relief on accessory structure and accessory structure in front yard for the construction of a garage.

AP 31, Lot 206 Zoned: RS 20

Chairman Arsenault read into the record correspondence from John Bigonette, Jr. requesting that this application be withdrawn without prejudice. Motion made by member Gobeille to accept the applicants request to withdraw this application without prejudice. Motion was seconded by member Halmi and carried with a 5-0 vote.

H.L. George Development Corp., c/o Richard Ackerman, Esquire, 191 Social Street, Woonsocket, RI – Extension of Zoning Board of Review Decision rendered on January 3, 2006 for a Special Use Permit application.

AP 41, Lot 44 Zoned: BL-0.5

H.L. George Development Corp., c/o Richard Ackerman, Esquire, 191 Social Street, Woonsocket, RI – Extension of Zoning Board of Review Decision rendered on January 3, 2006 for a Dimensional Variance application.

AP 41, Lot 44 Zoned: BL-0.5

Richard Ackerman, Attorney for the applicant addressed the Board and gave a brief history of this project. He stated that this project received Zoning approval in January 2006 and an extension in

January 2007. This application was filed under an abundance of caution as the construction has started but might not be completed before the two year zoning expiration is up. The financing is in place and will be closed on mid December 2007. The project is moving ahead toward completion. The construction plans are complete and have been approved by the State Fire Marshal. The plans are now in the Town Building Officials office for review and approval. Mr. Ackerman stated he doesn't believe his applicant will need this extension but in case issues come up they are still requesting it. Chairman Arsenault wanted to know what stage site development is at. Mr. John Sellzilow of Anodyne Construction testified that the site development is a third complete and the foundation work is approximately 30% complete. Work will continue through the winter months as weather permits. Mr. Herb George, principal for this project testified that all aspects of this project are coming together quickly and construction will proceed. Mr. George thanked the Board for their patience with this project.

Chairman Arsenault read into the record the recommendations of the Planning Board regarding this Extension of Decision regarding Special Use Permit.

This Special Use Permit is to construct an Alzheimer's Facility was rendered by the Zoning Board on January 3, 2006. The applicant is requesting a one year extension of this permit. The Planning Board reviewed the submitted application and recommends Approval of this request. As stated in the application, the applicant has been working

diligently to obtain RIDEM permits and final building plans necessary to proceed to the construction phase of the project.

Chairman Arsenault read into the record the recommendations of the Planning Board regarding this Extension of Decision regarding Dimensional Variance.

This Dimensional Variance is to construct an Alzheimer's Facility was rendered by the Zoning Board on January 3, 2006. The applicant is requesting a one year extension of this permit. The Planning Board reviewed the submitted application and recommends Approval of this request. As stated in the application, the applicant has been working diligently to obtain RIDEM permits and final building plans necessary to proceed to the construction phase of the project.

Opposed:

Raymond Furbosi, 419 Albion Road, Lincoln

Mr. Furbosi stated he was representing the condo association at 419 Albion Road. The group has concerns about the drainage from this project. Chairman Arsenault reminded Mr. Furbosi that the Board is only considering the extension tonight not the original application. The drainage issue should be discussed with the Town Building Official. Mr. Furbosi was concerned about the fencing style to be installed. The applicant stated that all fencing will be residential looking fence.

Motion made by member Halmi to approve a one year extension of a

decision on a Special Use Permit granted on January 3, 2006 and extended on January 2007. Motion was seconded by member Rao.

Findings of Fact:

- **Project has started construction.**
- **Site development is at 30% completion.**
- **Plans are approved by State Fire Marshall and being reviewed by Town Building Official**
- **Estimate given of 11 – 12 months to complete construction.**
- **Closing on financing to take place on December 14, 2007.**
- **Project time extended until January 3, 2010.**

Motion to approve Special Use Permit extension carried with 5-0 vote.

Motion made by member Halmi to approve a one year extension of a decision on a Dimensional Variance granted on January 3, 2006 and extended on January 2007. Motion was seconded by member Rao.

Findings of Fact:

- **Project has started construction.**
- **Site development is at 30% completion.**
- **Plans are approved by State Fire Marshall and being reviewed by Town Building Official**
- **Estimate given of 11 – 12 months to complete construction.**
- **Closing on financing to take place on December 14, 2007.**
- **Project time extended until January 3, 2010.**

Motion to approve Dimensional Variance extension carried with 5-0 vote.

David Reynolds, 38 Rockridge Road, Lincoln, RI – Application for Dimensional Variance seeking side yard setback for the construction of an addition.

AP 8, Lot 44 Zoned: RS-12

John Shekarchi, Attorney for the applicant addressed the Board. Mr. Shekarchi requested a ten minute recess to allow his planning expert to arrive. The Board granted his request. Chairman Arsenault cited the standards that need to be met for a Dimensional Variance application.

Attorney Shekarchi stated that the applicant, David Reynolds, live at the subject site in a single family home since 1984. The applicant requests to enlarge the existing home. They are currently living in Wrentham, Massachusetts. Attorney Shekarchi handed in a site plan as Exhibit #1. The site plan shows the property limits with setbacks and the proposed addition highlighted. Attorney Shekarchi handed the Board a set of pictures of the existing site as Exhibit #2. Exhibit #3 was handed to the Board which is an architects rendering of the proposed house. The architects rendering is a concept not necessarily what the final design will look like. The applicant is requesting a dimensional variance for the existing footprint which is legal nonconforming. The applicants' proposal will require approximately 12 feet and 7 feet on the left side and 1 foot and 7 feet on the right side. The applicant has spoken to 17 of the 22 abutters with no objections from any. The immediate abutters have signed a

letter of no objection. The letter was submitted as Exhibit #4. Doreen Reynolds, wife of applicant, testified that she witnessed the signatures of the abutters.

Witness:

Edward Pimentel, Land Use Planning Expert

Mr. Pimentel submitted a report with his resume attached which was accepted as Exhibit #5. Motion was made by member Rao to accept Mr. Pimentel as an expert in Land Use Planning and Zoning was seconded by member Halmi. Motion carried with a 5-0 vote.

Mr. Pimentel testified that he has reviewed the proposal and site and met with the applicants. A full analysis of the surrounding neighborhood was performed. The analysis was compared to the Town of Lincoln Zoning Ordinance and Comprehensive Plan for conformity. The applicants dwelling already encroaches the setback and the proposal would not exacerbate that condition. The majority of the improvements will be constructed within the building envelope.

The only improvement that will encroach into the setback is the right side where they propose to raise the existing first floor encroachment to a second floor. This would not be a new deviation as it already exists on the first floor. The analysis performed was to see how much of this type of improvement work has gone on in the surrounding area. The applicant currently has a total living area of 1558 square feet. Homes in the area are larger or have been enlarged to approximately double this size. This fact is contrasted by the fact

that the applicant has one of the larger lots in the area. The applicant currently covers about 7% of the property and the proposal would bring that to 12.5%. The neighboring properties average 16% coverage. The majority of the dwellings predate the 1970's and many owners are attempting to modernize. The current house was built on an angle in relationship to the lot which now causes the encroachment. Mr. Pimentel feels that addition will be in conformance with the general neighborhood as surrounding homes have also been modernized. Mr. Pimentel also testified that this proposal is in conformance with the Lincoln Zoning Ordinance and Comprehensive Plan. This is the least relief necessary as the encroachments exist and the applicant is not constructing anything further into the setback. The hardship is not a result of any actions of the application. This proposal is not to realize greater financial gain but it is to make a more workable home for their family. The southwest corner of the dwelling will require a 2 foot variance, the northeast corner will require 7.73 foot variance and the southeast corner will require 2.3 foot variance.

Member Halmi had several questions of Mr. Pimentel. Ms. Halmi questioned the accuracy of the houses used for comparison in the area. The houses in the immediate area do not resemble the proposal in this application. The house proposed is out of character and size for this area. None of the houses in this area have five bedrooms and four bathrooms as this application proposes. Ms. Halmi questioned what the height of the proposed structure will be. Mr. Pimentel

replied that the height would be within the zoning code of thirty-five feet. There were no elevations of the rear of this property supplied to the Board. The TRC recommended locating the addition to the rear and the applicant has not provided evidence why that can't happen. Mr. Pimentel stated that this information could be provided if the Board chooses. Attorney Shekarchi stated that the drawings provided were just a rendering and not the exact design of what the applicant intends to build. Mr. Pimentel stated that his opinion of this proposal conforming with this neighborhood, his intention is that the overall mass of the house conforms not so much the interior layout. Mr. Pimentel submitted his spreadsheet of data gathered in the area for the Board to evaluate. Attorney Shekarchi asked that this spreadsheet be entered as Exhibit #6 and the Board obliged. Ms. Halmi disagreed with the part of the report that states that neighboring properties value will be benefited as part of this proposal.

Chairman Arsenault notified Attorney Shekarchi of his concerns that the application is missing important data to help the Board make a decision. He went to say that the data for this property is missing as to design layout etc... Attorney Shekarchi told the Board that the applicant does not have a final design as of yet and felt that the final design was not required to apply for the relief. Attorney Shekarchi stated he would be willing to supply the missing elements of information that the Board would need to make a decision. He also invited the Board to visit the site to get a better depiction of the

restraints to putting the addition in the rear. Member Russo expressed that he thought the application was fair and also felt if the addition was in the rear the relief requested would be the same. Chairman Arsenault reiterated that he is concerned that the Board does not have sufficient information to make a decision. Member Rao expressed concerns about Exhibit #6 as it appears to compare this proposal with houses further away and not immediately adjacent to the subject property. Ms. Rao was concerned that charts within the submitted report do not match the houses that were on Exhibit #6. Mr. Pimentel stated that his reports were based on a five hundred foot analysis and not just the adjacent lots.

Attorney Shekarchi addresses the Board to state that he understands there to be three issues that need to be resolved. The first is the topography of the rear yard. The second is that the report from Mr. Pimentel be checked for accuracy and how clear it is presented. The third is to get a more finalized plan of what the applicant plans to construct. Chairman Arsenault stated that it is the burden of the applicant to present proper information to help the Board make a decision. Attorney Shekarchi requested that a continuation of this application be granted to the next available meeting. The applicants' witnesses had a problem making the January 8, 2008 hearing.

Motion was made by member Halmi to continue this application until the February 5, 2008 meeting. The motion was seconded by member Gobeille and carried with a 5-0 vote.

Motion was made by member Rao to adjourn. Motion was seconded by member Halmi and carried with a 5-0 vote.

Respectfully Submitted,

Russell Hervieux